

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. ~~2001~~<sup>2000</sup>-577-C - ORDER NO. 2001-265

MARCH 23, 2001

IN RE: Application of American Prepaid Telephone ) ORDER  
Service, LLC DBA South Carolina Prepaid ) APPROVING  
Telephone Service for a Certificate of Public ) APPLICATION  
Convenience and Necessity to Provide Local )  
Exchange Telecommunications Services )  
within the State of South Carolina.

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of American Prepaid Telephone Service, LLC d/b/a South Carolina Prepaid Telephone Service (American Prepaid Telephone Service or the Company) requesting a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services in certain geographic areas within the State. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280(B) (Supp. 2000) and Section 253 of the Telecommunications Act of 1996.

By letter, the Commission's Executive Director instructed American Prepaid Telephone Service to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. American Prepaid Telephone Service complied with this instruction and provided the Commission with proof of

publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on January 8, 2001.

On February 1, 2001, counsel for SCTC filed with the Commission a Stipulation in which American Prepaid Telephone Service stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until American Prepaid Telephone Service provided written notice of its intent prior to the date of the intended service. American Prepaid Telephone Service also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. American Prepaid Telephone Service agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to American Prepaid Telephone Service to provide local services provided the conditions contained in the Stipulation are met. The Stipulation was entered into the evidence of the hearing, and the Staff requested that the Stipulation be approved by the Commission. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on March 6, 2001, at 2:30 p.m., in the Commission's Hearing Room. The Honorable William Saunders, Chairman, presided. American Prepaid Telephone Service was represented by Faye A. Flowers, Esquire. Paul Troy Wright, Chief Executive Officer of the Company, appeared and testified on behalf of

American Prepaid Telephone Service. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff. Colanthia B. Alvarez, Rates Analyst and Roy H. Barnette, Auditor, testified on behalf of the Commission Staff.

As Chief Executive Officer of American Prepaid Telephone Service, Mr. Wright is responsible for all aspects of the Company's business operations. American Prepaid Telephone Service will offer prepaid local exchange telecommunications services in South Carolina. The Company is a start-up telecommunications company. Wright presented testimony regarding American Prepaid Telephone Service's financial, technical, and managerial ability to provide telecommunications services in South Carolina.

Regarding the Company's technical and managerial ability to offer telecommunications services in South Carolina, Wright testified the Company will rely on the local exchange carrier for "hard core physical technical" problems. With regard to the Company's internal technical background, the management of American Prepaid Telephone Company consists of Wright and Roderick A. Aycox. Aycox is Chief Executive Officer of Tel-Link, LLC, one of the first CLECs to operate as a reseller of local exchange services in the United States. As Chief Executive Officer of Tel-Link, LLC, Aycox has a substantial amount of a technical background. Aycox is also the Chief Executive Officer of Select Management Resources, LLC. Wright has some background as an attorney with a major Atlanta law firm where he was responsible for a major telecommunications carrier's negotiations in contracting with its various local agents. Wright has also undertaken a substantial amount of training with BellSouth

Telecommunications, Inc. in the area of education for competitive local exchange carriers. Wright also has access to a team of executives at Select Management Resources, LLC who along with Mr. Aycox, and the senior management team at Tel-Link, LLC can provide consulting services for Wright. Wright received his Bachelor of Science degree in Management and Technology from the United States Naval Academy in 1979. Wright also obtained a Juris Doctor degree from the University of Miami School of Law in 1987; he has practiced law since 1987.

Regarding the Company's financial ability to provide telecommunications services, the record reveals American Prepaid Telephone Service, if necessary, can rely on the substantial financial resources of its affiliated company, Select Management Resources, LLC. Furthermore, according to the record, Select Management Resources financed the Company's initial operations. Additionally, an Irrevocable Letter of Credit in the amount of fifty thousand dollars from Select Management Resources, LLC to American Prepaid Telephone Services was entered into the evidence of this case as Hearing Exhibit One. According to the testimony, this Irrevocable Letter of Credit would commit to pay any just obligation that the Company might fail to pay, within the stated limits.

American Prepaid Telephone Service will utilize direct marketing methods to market its services to business and residential customers. Additionally, although the Company has no plans at the present time to use telemarketing, if and when telemarketing is utilized, the Company will operate in accordance with the Commission's guidelines. Wright also discussed the public interests benefits associated with American

Prepaid Telephone Service's offering of telecommunications services in South Carolina. First, Wright testified that the Company's participation in the market will further the public interest by expanding the availability and variety of high-quality local exchange service in South Carolina. Second, Wright stated American Prepaid Telephone Services proposes to serve, primarily, a portion of the telecommunications market that some larger carriers have essentially "red-lined" out of the market through the use of credit policies. Finally, Wright opined that the Company's participation within the market should tend to lower prices, higher quality, and more consumer choices.

Alvarez's testimony focused on her review of the Company's application and tariff. Her testimony consisted of recommended changes to the Company's tariff so as to make the tariff consistent with the Commission's rules and regulations. With regard to the Company's request for a waiver of reporting requirements that are not specifically imposed upon other competitive local exchange carriers (CLECs) in South Carolina, Alvarez testified that Staff does not object to American Prepaid Telephone Services being required to file the same reports with the Commission that other CLECs have to file with the Commission.

Barnette testified that Staff reviewed the unaudited financial statements dated November 30, 2000, that were a part of the Company's filing. The Company's income statement for the period November 3 through November 30, 2000, showed no activity in the areas of revenue or expenses. Barnette also testified that the balance sheet indicates a strong company financially. Cash represented 99.77% of the current assets and 52.75% of total assets. Additionally, the balance sheet showed no liabilities and a positive

stockholders' equity as of the statement date. Barnette concluded by stating American Prepaid Telephone Services is in a good financial position to begin operations in South Carolina based on the financial statements filed as of November 30, 2000.

Upon consideration of the Application and the record from the hearing, the Commission makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. American Prepaid Telephone Service is a corporation under the laws of the State of Georgia and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. American Prepaid Telephone Service wishes to provide local exchange services within the State of South Carolina.
3. The Commission finds that American Prepaid Telephone Service possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 2000).
4. The Commission finds that American Prepaid Telephone Service's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 2000).
5. The Commission finds that American Prepaid Telephone Service will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 2000).

6. The Commission finds that American Prepaid Telephone Service will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 2000).

7. The Commission finds that the provision of local exchange service by American Prepaid Telephone Service “does not otherwise adversely impact the public interest.” S.C. Code Ann. §58-9-280(B)(5) (Supp. 2000).

### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to American Prepaid Telephone Service to provide competitive intrastate local exchange services within the State of South Carolina. The terms of the Stipulation between American Prepaid Telephone Service and the SCTC (attached hereto as Exhibit 1) are approved and adopted as a portion of this Order. Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation. In accordance with the Stipulation, American Prepaid Telephone Service may not provide any local service to a customer located in a rural incumbent LEC’s service area, unless or until American Prepaid Telephone Service provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission’s own Motion, provided

that the Commission can further suspend the implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from American Prepaid Telephone Service that it intends to serve a customer located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by American Prepaid Telephone Service in a rural incumbent LEC's service area pursuant to this Order without prior and further Commission approval.

2. American Prepaid Telephone Service shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Any proposed change in the rates reflected in the tariff for local services which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2000).

3. American Prepaid Telephone Service shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. American Prepaid Telephone Service shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but



not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. American Prepaid Telephone Service shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, American Prepaid Telephone Service shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's web site at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). This form is entitled "Annual Report for Competitive Local Exchange Carriers".

6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs American Prepaid Telephone Service to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample

forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board.

By this Order and prior to providing services within South Carolina, American Prepaid Telephone Service shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

American Prepaid Telephone Service shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

8. American Prepaid Telephone Service requests waivers from certain Commission regulations and requirements. Specifically, American Prepaid Telephone Service requested waivers from (1) the requirement found in Regulation 103-631 to publish and distribute local exchange directories; (2) any requirement to maintain books and records in compliance with the USOA; and (3) the requirement found in Regulation

103-610 which requires the Company's records required by the Commission's rules or necessary for the administration thereof, to be kept within the State of South Carolina.

The Commission grants the request for waiver from the requirement to publish directories as American Prepaid Telephone Service has indicated that it will arrange with the incumbent local exchange company in its interconnection agreement to include the customers of American Prepaid Telephone Service in the directory listing of the ILEC directory. Further, the Commission grants American Prepaid Telephone Service's request that it be allowed to keep its books and records in accordance with GAAP rather than the USOA. We also grant the Company's request for a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) so that the Company can keep its records required by the Commission's rules outside the State of South Carolina. American Prepaid Telephone Service is directed to comply with all Commission regulations, unless a regulation is specifically waived by the Commission.

9. American Prepaid Telephone Service's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, American Prepaid Telephone Service's local exchange service tariff filings will be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an

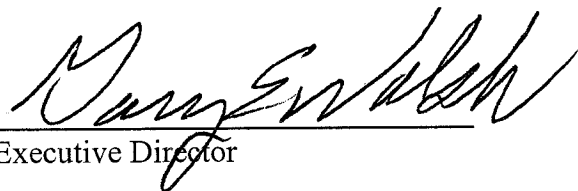
investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 2000-577-C

Re: Application of American Prepaid Telephone )  
Service, LLC d/b/a South Carolina Prepaid )  
Telephone Service for a Certificate of Public )  
Convenience and Necessity to Provide Local )  
Exchange Telecommunications Services in the )  
State of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and American Prepaid Telephone Service, LLC d/b/a South Carolina Prepaid Telephone Service ("American Prepaid") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose American Prepaid' Application. SCTC and American Prepaid stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to American Prepaid, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. American Prepaid stipulates and agrees that any Certificate which may be granted will authorize American Prepaid to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. American Prepaid stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. American Prepaid stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until American Prepaid provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, American Prepaid acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. American Prepaid stipulates and agrees that, if American Prepaid gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then American Prepaid will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. American Prepaid acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and American Prepaid, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. American Prepaid agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. American Prepaid hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 16<sup>th</sup> day of January, 2000.

American Prepaid Telephone Service, LLC  
d/b/a South Carolina Prepaid Telephone Service:

by: Paul W. Lyb  
Chief Executive Officer

South Carolina Telephone Coalition:

Margaret M. Fox  
M. John Bowen, Jr.  
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Attorneys for the South Carolina Telephone  
Coalition

## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.

Chesnee Telephone Company

Chester Telephone Company

Farmers Telephone Cooperative, Inc.

Ft. Mill Telephone Company

Heath Springs Telephone Company Inc.

Home Telephone Company, Inc.

Lancaster Telephone Company

Lockhart Telephone Company

McClellanville Telephone Company

Norway Telephone Company

Palmetto Rural Telephone Cooperative, Inc.

Piedmont Rural Telephone Cooperative, Inc.

Pond Branch Telephone Company

Ridgeway Telephone Company

Rock Hill Telephone Company

Sandhill Telephone Cooperative, Inc.

St. Stephen Telephone Company

West Carolina Rural Telephone Cooperative, Inc.

Williston Telephone Company



BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 2000-577-C

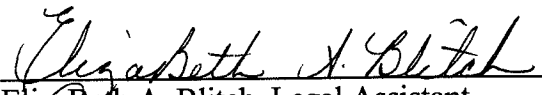
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Exchange Telecommunications Services in the )  
State of South Carolina )

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**CERTIFICATE OF  
SERVICE**

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Faye A. Flowers, Esquire  
Parker, Poe, Adams and Bernstein  
Post Office Box 1509  
Columbia, SC 29202-1509

  
Elizabeth A. Blitch, Legal Assistant  
McNAIR LAW FIRM, P.A.  
Post Office Box 11390  
Columbia, South Carolina 29211  
(803) 799-9800

February 1, 2001

Columbia, South Carolina